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correctly stated. Such did happen in the 1930's. But, so far as I know, nothing of that nature has happened within the past decade or so.

Mr. STENNIS. The Senator is correct. Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. STENNIS. I yield to the Senator from Georgia.

Mr. TALMADGE. The Senator from Georgia made no such reference with respect to the present treaty.

Mr. MANSFIELD. I understand that. I was merely bringing out the fact.

Mr. TALMADGE. The Senator from Georgia was merely upholding the position taken by the distinguished Senator from Mississippi that no treaty could have any force or effect without ratification by two-thirds of the Members of the Senate of the United States.

The Senator from Georgia, also, was pointing out that there have been instances in our history when executive agreements have nullified State constitutions. Such agreements were never submitted to the Senate; and the Senator from Georgia was deploring that fact.

Mr. STENNIS. That is correct.

Mr. MANSFIELD. Mr. President, the Senator from Georgia is exactly correct, as he usually is. When I came into the Chamber I heard a reference to an executive agreement. Not knowing the connection, I wished to make doubly sure that so far as the instrument under consideration is concerned there was no such thought in mind.

I am delighted that both the Senator from Georgia and the Senator from Mississippi have indicated that the instrument now before the Senate is the kind of treaty which is subject to advice and consent and a two-thirds vote by Members of the Senate.

Mr. TALMADGE. There was no contention to the contrary.

Mr. STENNIS. I assure the Senator from Montana that this is one time when the Senator from Georgia and the Senator from Mississippi are not getting out of bounds according to the Senator's standards.

Mr. President, I resume my remarks.

The true role of the Senate in the making of treaties was defined by Rufus King on the floor of the Senate on January 12, 1818. Senator King had been a delegate from Massachusetts to the Constitutional Convention. He later was elected U.S. Senator from New York. This is what he said:

In these concerns the Senate are the constitutional and the only responsible counselors of the President. And in this capacity the Senate may, and ought to, look into and watch over every branch of the foreign affairs of the Nation; they may, therefore, at any time call for full and exact information respecting the foreign affairs, and express their opinion and advice to the President respecting the same, when, and under whatever other circumstances, they may think such advice expedient.

To make a treaty includes all the proceedings by which it is made; and the advice and consent of the Senate being necessary in the making of treaties, must necessarily be so, touching the measures employed in making the same. The Constitution does not say that treaties shall be concluded, but

that they shall be made, by and with the advice and consent of the Senate; none therefore can be made without such advice and consent; and the objections against the agency of the Senate in making treaties, or in advising the President to make the same, cannot be sustained, but by giving to the Constitution an interpretation different from its obvious and most salutary meaning.

I emphasize this not because anyone seeks to do otherwise with respect to the pending treaty, but because there has been an argument made many times. It was even repeated in a news conference, as I understand the report in the papers, when the President of the United States pointed out that we have gone so far we cannot turn back. A conclusion like that ignores, for the time being, the essential mandate of the Constitution of the United States that these matters can be concluded only in the Senate.

Furthermore, do any of us here really believe that the role of this Nation as leader and protector of the free world rests on such an unsubstantial foundation as the vagaries of so-called world opinion? The sources of our power and our wealth will not be altered by our rejection of this treaty. These are the bases for our claim to leadership. Do these statements imply that our historical role and our membership in the North Atlantic Treaty Organization, the Central Treaty Organization, the Southeast Asian Treaty Organization, the Organization of American States, our foreign aid and military aid programs, our defense of Korea and Berlin, and our support of the United Nations will be forgotten? Do such statements imply that our worldwide friendships and bilateral alliances will be shattered by the rejection of the treaty? I do not believe it at all.

World opinion is too inconstant to be made the basis for foreign policy. World opinion was not outraged when the Soviet Union shattered the 3-year moratorium on nuclear testing in September 1961. I challenge the contention that this Nation is such a feeble reed that it will bend under the temporary displeasure of other nations which are surrendering nothing by signing this treaty, and which, in the final analysis, have a direct interest in the maintenance by this Nation of a strong and vital deterrent to the aggressive tendencies of the Soviet Union.

Let me say a further word about the Joint Chiefs and their role in this matter. From the testimony which I heard beginning last September I am convinced that the Chiefs were not fully consulted about the military aspects and implications of the various nuclear test ban proposals. I am convinced that this is true with respect to the treaty now pending before us. Their role in this matter seems to have been consistently downgraded, and I am concerned about the thinking of those who would commit to us a treaty which has such a direct and momentous effect on our Military Establishment without full, exhaustive, and thorough consultation with our top military planners.

I say this again with all deference to all parties concerned, military and civilian. Even apart from the treaty, these

words need to be said. Not in criticism of anyone, but these words should be said with reference to the necessity of our top military men being consulted in advance. As General LeMay said, the decision had already been made. The lights had already been run—to say whether they were green or red is only argumentative. So far as the executive department is concerned, the matter had been concluded when the military men got into it in a comprehensive way.

I know that there are those who have given assurance that the Chiefs were fully consulted, but let me cite the record. First, there is the fact that, for some strange reason, no high-ranking military officer accompanied the Harriman delegation to Moscow.

I asked Secretary Rusk in the open hearing before the Committee on Foreign Relations why one of the Joint Chiefs of Staff or some other military representative was not taken to Moscow. I received a very fine answer. He said it was not considered necessary. I do not know exactly how to interpret that. It could have been a short answer, although I am sure he did not mean to be curt. Giving it a literal interpretation, it was said that no military adviser was needed.

Next I cite a question and answer exchange from General LeMay's testimony on August 16:

Senator GOLDWATER. Did Mr. McNamara visit with you prior to the departure of Mr. Harriman to Moscow?

General LEMAY. No, sir.

Senator GOLDWATER. On this treaty? Has he visited with you since on this treaty?

General LEMAY. No, sir.

General LeMay also said Secretary McNamara "did not come down to a full meeting of the Joint Chiefs and discuss the treaty. He did not discuss it with me personally."

Adm. George W. Anderson, Jr., former Chief of Naval Operations, when he appeared before the Subcommittee on August 23, was asked "did Secretary McNamara consult with you about this specific treaty?" He replied:

To the best of my recollection, Secretary McNamara did not discuss this particular treaty with the Joint Chiefs of Staff while I was present prior to the first of August.

There was then the following question and answer:

Mr. KENDALL. Then I take it that you are saying that there was no discussion by Secretary McNamara with you or the Joint Chiefs when you were present prior to Mr. Harriman going to Moscow and proposing this treaty.

Admiral ANDERSON. On this particular treaty, that is correct.

The fact that the Joint Chiefs were not consulted and given the opportunity to present their views as to the military implications of the treaty prior to our commitment comes through loud and clear on the record before the Subcommittee.

Let me now discuss rather briefly the military and technical aspects and implications of missile tests bans—a subject on which the Preparedness Subcommittee held hearing for 11 months. There is little doubt that the depth and range of these inquiries was greater than any